

AMENDED IN ASSEMBLY AUGUST 20, 2014

AMENDED IN ASSEMBLY AUGUST 6, 2014

AMENDED IN ASSEMBLY JULY 2, 2014

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN SENATE MAY 5, 2014

AMENDED IN SENATE MARCH 28, 2014

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**SENATE BILL**

**No. 1414**

**Introduced by Senator Wolk**

(Coauthors: Assembly Members Mullin and Williams)

February 21, 2014

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An act to amend Section 380 of, and to add Section 380.5 to, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1414, as amended, Wolk. Electricity: demand response.

(1) The Public Utilities Act requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, as defined, in accordance with specified objectives. The definition of a "load-serving entity" excludes a local publicly owned electric utility. The act requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements to provide reliable electric service. The act requires the ~~commission~~ *Public Utilities Commission* to determine the most efficient and equitable means for achieving prescribed objectives.

*The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission and requires it to undertake a continuing assessment of trends in the consumption of electricity and other forms of energy, to analyze the social, economic, and environmental consequences of those trends and to collect from electric utilities, gas utilities, and fuel producers and wholesalers, and other sources, forecasts of future supplies and consumption of all forms of energy. That act requires the State Energy Resources Conservation and Development Commission, beginning November 1, 2003, and every 2 years thereafter, to adopt an integrated energy policy report that includes an overview of major energy trends and issues facing the state.*

This bill would include, as an objective for the resource adequacy requirements referenced above, establishing *new* or maintaining *existing* demand response products and tariffs that facilitate the economic dispatch and use of demand response that can either meet or reduce an electrical corporation's resource adequacy requirements, as determined by the ~~commission~~ *Public Utilities Commission*. The bill would additionally require each load-serving entity to maintain both electrical demand response and physical generating capacity adequate to meet its load requirements. The bill would require the ~~commission~~ *Public Utilities Commission* to determine the most efficient and equitable means to ensure that investments are made in new and existing demand response resources that are cost effective and help to achieve *electrical grid reliability and the state's greenhouse gas emissions reduction goals*. ~~goals for reducing emissions of greenhouse gases~~. The bill would require the ~~commission~~ *Public Utilities Commission* to ensure appropriate valuation of both supply and load modifying demand response resources and to establish a mechanism to value load modifying demand response resources, including, but not limited to, the ability of demand response resources to help meet distribution needs, transmission system needs, and to help reduce a load-serving entity's resource adequacy obligation. The bill would require the ~~commission~~ *Public Utilities Commission, State Energy Resources Conservation and Development Commission, and the Independent System Operator* to ensure that changes in demand caused by load modifying demand response are expeditiously and comprehensively reflected in ~~relevant forecasting and the integrated energy policy report forecast~~, as well as planning proceedings and associated analyses, and encourage reflection of these changes in demand in the operation of the grid. The bill would require the

~~commission~~, *Public Utilities Commission*, in establishing a demand response program, to take certain actions.

(2) Under existing law, a violation of the Public Utilities Act or an order or direction of the ~~commission~~ *Public Utilities Commission* is a crime.

This bill would be part of the ~~act~~ *Public Utilities Act* and an order or other action of the ~~commission~~ *Public Utilities Commission* would be required to implement the bill. Because a violation of this bill or an order or other action of the ~~commission~~ *Public Utilities Commission* implementing those provisions would be a crime, and because the bill would make certain violations by a load-serving entity a crime, this bill would thereby impose a state-mandated local program by creating new crimes and by expanding the definition of existing crimes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Demand response programs and tariffs empower customers
- 4 to save money and reduce pollution by making electrical demand
- 5 smart, dynamic, and responsive.
- 6 (2) Demand response allows for a smarter electrical grid that
- 7 reduces demand for electricity during peak hours when the grid
- 8 operator would otherwise often be forced to rely on quite inefficient
- 9 fossil fuel peaking plants.
- 10 (3) Demand response can play a pivotal role in integrating clean
- 11 energy resources onto the electrical grid by shifting electricity
- 12 usage to times when there is abundant electricity generated by
- 13 renewable energy resources available and can help provide
- 14 electrical capacity in southern California following the closure of
- 15 the San Onofre Nuclear Generation Station and the phase out of
- 16 natural gas fired powerplants that employ once-through cooling.

1 (4) Reducing and shifting demand for electricity through demand  
2 response can negate the need for more costly investments in  
3 powerplants and transmission lines.

4 (5) Increasing the role of demand response will reduce emissions  
5 of greenhouse gases and other pollutants from the electricity sector.

6 (6) Other regions of the United States have achieved substantial  
7 reductions in peak demand through deployment of demand  
8 response.

9 (b) In enacting this act, it is the intent of the Legislature to ensure  
10 that California and the Public Utilities Commission help meet the  
11 state's greenhouse gas emissions reduction goals and achieve  
12 *electrical* grid reliability by increasing the utilization of demand  
13 response.

14 (c) It is further the intent of the Legislature, in enacting this act,  
15 to ensure that the procurement, programmatic, ~~rate-based,~~  
16 *tariff-based*, and other options that the Public Utilities Commission  
17 is pursuing or may pursue in furtherance of demand response are  
18 in no way hindered or superseded by the provisions in this act.

19 SEC. 2. Section 380 of the Public Utilities Code is amended  
20 to read:

21 380. (a) The commission, in consultation with the Independent  
22 System Operator, shall establish resource adequacy requirements  
23 for all load-serving entities.

24 (b) In establishing resource adequacy requirements, the  
25 commission shall achieve all of the following objectives:

26 (1) Facilitate development of new generating capacity and  
27 retention of existing generating capacity that is economic and  
28 needed.

29 (2) Establish *new* or maintain *existing* demand response products  
30 and tariffs that facilitate the economic dispatch and use of demand  
31 response that can either meet or reduce an electrical corporation's  
32 *resource* adequacy requirements, as determined by the commission.

33 (3) Equitably allocate the cost of generating capacity and  
34 demand response in a manner that prevents the shifting of costs  
35 between customer classes.

36 (4) Minimize enforcement requirements and costs.

37 (5) Maximize the ability of community choice aggregators to  
38 determine the generation resources used to serve their customers.

39 (c) Each load-serving entity shall maintain physical generating  
40 capacity and electrical demand response adequate to meet its load

1 requirements, including, but not limited to, peak demand and  
2 planning and operating reserves. The generating capacity or  
3 electrical demand response shall be deliverable to locations and  
4 at times as may be necessary to maintain electric service system  
5 reliability and local area reliability.

6 (d) Each load-serving entity shall, at a minimum, meet the most  
7 recent minimum planning reserve and reliability criteria approved  
8 by the Board of Directors of the Western Systems Coordinating  
9 Council or the Western Electricity Coordinating Council.

10 (e) The commission shall implement and enforce the resource  
11 adequacy requirements established in accordance with this section  
12 in a nondiscriminatory manner. Each load-serving entity shall be  
13 subject to the same requirements for resource adequacy and the  
14 renewables portfolio standard program that are applicable to  
15 electrical corporations pursuant to this section, or otherwise  
16 required by law, or by order or decision of the commission. The  
17 commission shall exercise its enforcement powers to ensure  
18 compliance by all load-serving entities.

19 (f) The commission shall require sufficient information,  
20 including, but not limited to, anticipated load, actual load, and  
21 measures undertaken by a load-serving entity to ensure resource  
22 adequacy, to be reported to enable the commission to determine  
23 compliance with the resource adequacy requirements established  
24 by the commission.

25 (g) An electrical corporation's costs of meeting *or reducing*  
26 resource adequacy requirements, including, but not limited to, the  
27 costs associated with system reliability and local area reliability,  
28 that are determined to be reasonable by the commission, or are  
29 otherwise recoverable under a procurement plan approved by the  
30 commission pursuant to Section 454.5, shall be fully recoverable  
31 from those customers on whose behalf the costs are incurred, as  
32 determined by the commission, at the time the commitment to  
33 incur the cost is made, on a fully nonbypassable basis, as  
34 determined by the commission. The commission shall exclude any  
35 amounts authorized to be recovered pursuant to Section 366.2  
36 when authorizing the amount of costs to be recovered from  
37 customers of a community choice aggregator or from customers  
38 that purchase electricity through a direct transaction pursuant to  
39 this subdivision.

1 (h) The commission shall determine and authorize the most  
2 efficient and equitable means for achieving all of the following:

3 (1) Meeting the objectives of this section.

4 (2) Ensuring that investment is made in new generating capacity.

5 (3) Ensuring that existing generating capacity that is economic  
6 is retained.

7 (4) Ensuring that the cost of generating capacity and demand  
8 response is allocated equitably.

9 (5) Ensuring that community choice aggregators can determine  
10 the generation resources used to serve their customers.

11 (6) Ensuring that investments are made in new and existing  
12 demand response resources that are cost effective and help to  
13 achieve *electrical* grid reliability and the state's ~~greenhouse gas~~  
14 ~~emissions reduction goals~~. *goals for reducing emissions of*  
15 *greenhouse gases*.

16 (i) In making the determination pursuant to subdivision (h), the  
17 commission may consider a centralized resource adequacy  
18 mechanism among other options.

19 (j) *The commission shall ensure appropriate valuation of both*  
20 *supply and load modifying demand response resources*. The  
21 commission, in an existing or new proceeding, shall establish a  
22 mechanism to value load modifying demand response resources,  
23 including, but not limited to, the ability of demand response  
24 resources to help meet distribution needs and transmission system  
25 needs and to help reduce a load-serving entity's resource adequacy  
26 obligation pursuant to this section. In determining this value, the  
27 commission shall consider how these resources further the state's  
28 electrical grid reliability and the state's ~~greenhouse gas emissions~~  
29 ~~reduction goals~~. *goals for reducing emissions of greenhouse gases*.  
30 ~~The commission shall~~ *commission, Energy Commission, and*  
31 *Independent System Operator shall jointly* ensure that changes in  
32 demand caused by load modifying demand response are  
33 expeditiously and comprehensively reflected in ~~relevant forecasting~~  
34 ~~and the Energy Commission's Integrated Energy Policy Report~~  
35 *forecast, as well as in* planning proceedings and associated ~~analyses~~  
36 *analyses*, and *shall* encourage reflection of these changes in  
37 demand in the operation of the grid.

38 (k) For purposes of this section, "load-serving entity" means an  
39 electrical corporation, electric service provider, or community

1 choice aggregator. “Load-serving entity” does not include any of  
2 the following:

3 (1) A local publicly owned electric utility.

4 (2) The State Water Resources Development System commonly  
5 known as the State Water Project.

6 (3) Customer generation located on the customer’s site or  
7 providing electric service through arrangements authorized by  
8 Section 218, if the customer generation, or the load it serves, meets  
9 one of the following criteria:

10 (A) It takes standby service from the electrical corporation on  
11 a commission-approved rate schedule that provides for adequate  
12 backup planning and operating reserves for the standby customer  
13 class.

14 (B) It is not physically interconnected to the electrical  
15 transmission or distribution grid, so that, if the customer generation  
16 fails, backup electricity is not supplied from the electrical grid.

17 (C) There is physical assurance that the load served by the  
18 customer generation will be curtailed concurrently and  
19 commensurately with an outage of the customer generation.

20 SEC. 3. Section 380.5 is added to the Public Utilities Code, to  
21 read:

22 380.5. (a) In establishing a demand response program, the  
23 commission shall do all of the following:

24 (1) Establish rules consistent with state and federal law for how  
25 and when back-up generation may be used within the program and  
26 establish reporting and data collection requirements to verify  
27 compliance with those rules.

28 (2) Ensure the program approved for resource adequacy  
29 requirements delivers the expected results and provides ratepayer  
30 benefits.

31 (3) Before the implementation of a program for residential  
32 customers, establish customer protection rules regarding the  
33 participation, cost of participation, and ability to ~~opt out of~~ *not*  
34 *enroll in* the program. A residential customer who ~~opts out of~~ *does*  
35 *not enroll in* the program shall lose eligibility for rebates, discounts,  
36 and other incentives offered to customers who participate in the  
37 program. The commission shall prohibit the imposition of charges  
38 on a residential customer for ~~opting out of~~ *not enrolling in* the  
39 program. ~~A residential customer who opts out of the program shall~~  
40 ~~still be eligible for time-variant pricing.~~

1 (4) Establish a method to accurately calculate the customer's  
2 load shift at time intervals in which the customer would be eligible  
3 for demand response program payments or credits.

4 (5) Establish metering and monitoring policies for the program.

5 (b) This section does not apply to time-variant—pricing  
6 ~~established pursuant to Section 745.~~ *pricing as defined in Section*  
7 *745, including time-of-use rates, critical peak pricing, and*  
8 *real-time pricing, or to similar tariffs, including peak time rebates.*

9 SEC. 4. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.